

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
IN BLUEFIELD

MICHAEL H. HOLLAND, MICHAEL W.
BUCKNER, DANIEL L. FASSIO and
MORRIS D. FEIBUSCH as Trustees
of the UNITED MINE WORKERS OF
AMERICA 1993 BENEFIT PLAN,

Plaintiffs,

v.

Civil Action No. 1:12-00636

KARLA COAL, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is Plaintiffs' Motion for Judgment for Attorney Fees and Costs. Doc. No. 13. For the following reasons, the court **GRANTS** Plaintiffs' motion and **ORDERS** Defendant to pay Plaintiffs the amount of \$1045.00.

Discussion

On January 31, 2013, by Memorandum Opinion and Order and final Judgment Order entered the same day, the court granted Plaintiffs' Motion for Default Judgment pursuant to Rule 55(b) (2) of the Federal Rules of Civil Procedure. Doc. Nos. 11 & 12. The court also ordered

pursuant to 29 U.S.C. § 1132(g) (2) (D), that the Plaintiffs shall have 30 days from the entry of [the January 31, 2013 Order] to file a motion and affidavit with the court seeking a judgment for attorney fees and costs.

Doc. No. 11, at 3. Plaintiffs timely filed the instant motion on February 4, 2013, along with an affidavit detailing the attorney's fees and costs incurred by prosecuting this action. See Doc. 13-1.

After reviewing the instant motion and its accompanying affidavit, the court finds that the attorney's fees and costs claimed therein are reasonable under 29 U.S.C. § 1132(g)(2)(D). See DeVito v. Hempstead China Shop, Inc., 831 F. Supp. 1037, 1043 (E.D.N.Y. 1993) (stating that "determination of a reasonable fee award under Section 1132(g)(2)(D) of ERISA lies within the sound discretion of the district judge."); see also Bldg. Serv. Local 47 Cleaning Contractors Pension Plan v. Grandview Raceway, 46 F.3d 1392, 1402 (6th Cir. 1995) (noting that no hearing was required to determine "reasonableness" of attorney's fees and costs claimed under 1132(g)(2)(D)) (citing Environmental Defense Fund, Inc. v. Lamphier, 714 F.2d 331, 340 (4th Cir. 1983) (no hearing required for fee applications under RCRA)).

Conclusion

Accordingly, the court **GRANTS** Plaintiffs motion (Doc. No. 13) and **ORDERS** Defendant to pay Plaintiffs' attorney's fees and costs in the amount of \$1045.00.¹

¹ The court arrives at the figure of \$1045.00 by reference to Doc. No. 13-1, Plaintiffs' counsel's affidavit swearing to a \$350.00 filing fee, \$20.00 service fee, and 4.5 billable hours performed by counsel at the rate of \$150.00 per hour.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record and to the Defendant Karla Coal, Inc. at their last known address.

IT IS SO ORDERED, this 28th day of March, 2013.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge